

# MEGAN'S LAW

Many agents and brokers have called me lately asking questions about how to handle Megan's Law issues. Megan's Law requires individuals who have been convicted of sexual crimes to register with law enforcement officials once they are released from incarceration.

## **Some Background and Information about Megan's Law**

In 1994, a little girl named Megan Kanka was abducted, molested and killed in her New Jersey neighborhood by a man who was a repeat sex offender. Her parents were unaware that this repeat offender lived near their home. Megan's parents petitioned Congress to pass a law that would allow for the registration and dissemination of information about sex offenders. Megan's Law was indeed passed and signed into law on May 17, 1996.

Congress then mandated that the Department of Justice must develop a database of sex offenders and allow the states to develop and maintain their own databases. In addition, states were required to develop public notification procedures or risk losing federal funding for crime initiatives.

Megan's Law is a very well intentioned law that is designed to prevent crimes against children. However, the law is sometimes very difficult to implement. There is no perfect solution or answer to all the issues that are raised by this law. One of the problems with the law is that people are very mobile. A sex offender may register at one address and then move very quickly. The sheriff may indeed notify a seller that there is a registered sex offender in the area, and then that person may move without anyone's knowledge. By the same token, a sex offender may move into a particular neighborhood, and the residents, for one reason or another, may not immediately find out that the offender is there.

## **How Megan's Law Affects You, the Licensee**

This law affects your business when you list a home or represent a buyer in a neighborhood where a registered sex offender lives. The law only requires disclosure by law enforcement. It does not require real estate licensees or sellers to disclose information about sex offenders. Sometimes, however, a seller or an agent feels a moral obligation to disclose such information, especially if the potential buyer has small children.

There is certainly nothing improper about a seller wanting to disclose this information. However, based upon the reasons outlined above, the seller's information might not be up-to-date or even accurate. If a seller wants to inform potential buyers that he has been notified of a registered sex offender in the area, he should check up on the information through the local sheriff's office or through the Kentucky State Police Registry website at

**<http://kspsor.state.ky.us>** or call toll-free at 1-866-564-5652 and encourage the buyer to do the same.

You may run into situations where you learn that a registered sex offender lives in a particular neighborhood where you have a listing. You may feel a moral obligation to disclose this information to potential buyers or to buyers' agents. If you discuss your misgivings with the seller and the seller wants to disclose as well, then you are both certainly free to do so. On the other hand, if you feel that disclosure is best and the seller does not want to disclose, you must decide whether to keep that listing. It is your fiduciary duty to abide by all lawful instructions of a seller. Since the law does not require disclosure, that seller may be legally justified in not disclosing. The decision on how to proceed will be yours at that point. You do not want to stigmatize a seller's property unnecessarily, but you are also not required to pursue a listing that goes against your personal views.

As a buyer's agent, you may run into a situation in which you are representing a buyer with small children and you find out that there may be a sex offender in the neighborhood where that buyer wants to move. Agents are often caught in a dilemma as to what to disclose and how.

Perhaps the best approach to Megan's Law is to develop a strategy prior to running into a dilemma. It is certainly advisable to contact your company's attorney to discuss how your company should handle Megan's Law issues --if at all.

If you have any questions, please feel free to contact me at the Commission.